

Confidentiality and Privacy Rights and Protections Provided for Participants in Tennessee's Streamlined Sales and Use Tax System

The following information concerns the confidentiality and privacy rights and protections from unauthorized disclosure of tax returns or tax information that participants in Tennessee's Streamlined Sales and Use Tax System can expect. The language used is not quoted verbatim from the Streamlined Sales and Use Tax Agreement (SSUTA) or from the applicable statutes and may not cover every provision set forth in the SSUTA or the Tennessee Code Annotated. This information should not be used as a substitute for the formal text of the SSUTA or the Tennessee Code Annotated.

- The Tennessee Taxpayer Bill of Rights states that participants in Tennessee's Streamlined Sales and Use Tax System have the right to know the Tennessee Department of Revenue's policies with respect to use and retention of information that identifies an individual or entity and to be assured that each taxpayer's financial information will be kept confidential. Tenn. Code Ann. § 67-1-110(c)(5) and (6).
- Tennessee law requires a Streamlined certified service provider (CSP) and the Department of Revenue to comply with the privacy policy of the Streamlined Sales and Use Tax Agreement. Tenn. Code Ann. § 67-1-1712(a).
- Tennessee's Streamlined Sales and Use Tax privacy policy and confidentiality statutes are enforceable by the Tennessee State Attorney General. Tenn. Code Ann. §§ 8-6-301(a) and (b) and 67-1-1712(a).
- A taxpayer, or its fiduciary or representative, has the right of reasonable access to information that identifies such taxpayer and that is retained by the Tennessee Department of Revenue and has the right to correct any inaccurate recording of such information. Disclosure of tax information is not required if the Commissioner of Revenue determines that such disclosure would be seriously burdensome to tax administration. SSUTA § 321(G) and Tenn. Code Ann. § 67-1-1703.
- The Streamlined Governing Board will certify a CSP only if the provider meets the following criteria: SSUTA § 321(D) and Tenn. Code Ann. § 67-1-1712(a).
 - Its system is designed and tested to ensure anonymity.
 - Information that identifies an individual or entity is used and retained only as necessary for administration with respect to exempt purchasers.
 - It provides clear and conspicuous notice of information practices, information collected, how information is collected, how information is used, how long, if at all, information is retained, and whether information is disclosed to other states. A publicly accessible privacy policy statement on the provider's Web site will satisfy this requirement.

- Collection, use and retention of information that identifies an individual or entity are limited to requirements by member states to ensure exemption validity due to consumer status or use of goods or services purchased. A member state may use such information to conduct audits or other reviews.
- Adequate technical, physical and administrative safeguards protect information that identifies an individual or entity from unauthorized access and disclosure.
- Tennessee has very strict confidentiality statutes that prohibit disclosure of a “return” or “tax information.” Tenn. Code Ann. § 67-1-1702.
- For purposes of Tennessee’s confidentiality statutes, a “return” includes a tax or information return, an estimated tax declaration, a refund claim, or a penalty waiver petition, and also includes any supporting schedules, attachments, or supplemental lists to such documents that are required or permitted by law to be filed or submitted to the Commissioner of Revenue. Tenn. Code Ann. § 67-1-1701(5).
- Under Tennessee’s confidentiality statutes, “tax information” includes a taxpayer’s identity, name, mailing address, identifying number, account number, or the nature, source or amount of its income, payments, receipts, declarations, exemptions, credits, assets, liabilities, net worth, tax liability, tax collected, deficiencies, over-assessments, tax, tax payments, penalty, interest, fine, forfeiture, or any other data received by, recorded by, prepared by, furnished to, or collected by, the Commissioner. Tenn. Code Ann. § 67-1-1701(8) and (9).
- It is a Class E felony for any person who has access or who at any time had access to a return or tax information to disclose such return or tax information to any person except as authorized by law. If an officer or employee of the State of Tennessee is convicted of such an offense, he or she shall, in addition to other punishment, be dismissed from office or discharged from employment. Tenn. Code Ann. § 67-1-1709(a).
- It is a Class E felony for any person to offer any item of material value in exchange for any return or tax information and to receive a return or tax information as a result of such solicitation. Tenn. Code Ann. § 67-1-1709(b).
- It is a Class E felony for any employee of the Tennessee Department of Revenue to willfully inspect any return or tax information except when such employee has a good faith and objectively reasonable basis for believing such inspection is in furtherance of his or her duties or responsibilities. Tenn. Code Ann. § 67-1-1709(c).
- Tennessee’s confidentiality statutes provide for the disclosure of a return or tax information for administrative purposes and tax collection as follows:

Note that the person receiving a return or tax information for any of these purposes is bound by the same confidentiality provisions as is the Tennessee Department of Revenue. Tenn. Code Ann. § 67-1-1704(f).

- When official duties of officers and employees of the Tennessee Department of Revenue require them to access a return or tax information for tax administration purposes. Tenn. Code Ann. § 67-1-1704(a).
- In the case of a federal or state judicial or administrative proceeding pertaining to tax administration if the taxpayer is a party to such proceeding, an item on the return is directly related to resolution of an issue in the proceeding, or the return or tax information directly relates to a transactional relationship between a party to the proceeding and the taxpayer and directly affects the resolution of an issue in the proceeding. Tenn. Code Ann. § 67-1-1704(b)(1).
- To the extent necessary for processing, storage, transmission, or reproduction of the return or tax information, or to program, maintain, repair, test or procure equipment for purposes of tax administration. Tenn. Code Ann. § 67-1-1704(c).
- Upon written request, to officials of Tennessee local governments to determine whether proper local taxes are being paid. Tenn. Code Ann. § 67-1-1704(d).
- Upon subpoena by either house of the General Assembly or any committee or subcommittee for purposes of tax administration. Tenn. Code Ann. § 67-1-1704(e).
- To a person contracting with the Tennessee Department of Revenue to collect unpaid taxes to the extent necessary to collect such taxes. Tenn. Code Ann. § 67-1-1704(f).
- Tennessee's confidentiality statutes provide for the disclosure of a return or tax information for tax enforcement purposes as follows:
 - To the Tennessee State Attorney General or the District Attorneys General to prepare for any proceeding or court of law or equity in a civil or criminal matter involving tax administration, collection or prosecution, if the taxpayer is a party to such proceeding, an item on the return is directly related to resolution of an issue in the proceeding, or the return or tax information directly relates to a transactional relationship between a party to the proceeding and the taxpayer and directly affects, or may affect, the resolution of an issue in the proceeding or investigation. Tenn. Code Ann. § 67-1-1705(a).
 - An officer or employee of the Tennessee Department of Revenue, in connection with performing official duties, may disclose tax information to the extent that such disclosure is necessary to obtain information not otherwise reasonably available with respect to the correct determination of tax, liability for tax, or the amount to be collected. Tenn. Code Ann. § 67-1-1705(b).
 - An officer or employee of the Tennessee Department of Revenue, in connection with performing official duties, may disclose tax information when such disclosure is

required to assure compliance with Tennessee tax laws. Tenn. Code Ann. § 67-1-1705(b).

- The investigative records of the Tennessee Department of Revenue's Special Investigations Division that relate to potential criminal prosecutions of persons for violation of Tennessee's tax laws are confidential and may not be disclosed to any person except in the exercise of the discretion of the Commissioner. Tenn. Code Ann. § 67-1-1705(c).
- The amount of a taxpayer's outstanding obligation secured by a lien may be disclosed to any person or agent of such person that has a right in the property subject to the lien or that intends to obtain a right in such property. Tenn. Code Ann. § 67-1-1706(a).
- The amount of a taxpayer's outstanding obligation may be disclosed to a person who stands as surety on a bond required for such taxpayer. Tenn. Code Ann. § 67-1-1706(b).
- Tennessee's confidentiality statutes provide for the disclosure of a return or tax information for the following miscellaneous purposes:
 - For purposes of audit, returns and tax information are open to inspection by the State Comptroller of the Treasury or his designated representative. If permitted by federal law or if disclosure prohibitions are waived, disclosure of federal tax returns or information in the Tennessee Department of Revenue's possession may also be disclosed to the Comptroller for purposes of audit. Tenn. Code Ann. § 67-1-1707(a).
 - A return or tax information may be disclosed to a competent authority of another state or the federal government that agrees to disclose returns or tax information to Tennessee. Tenn. Code Ann. § 67-1-1707(b).
 - If relevant to their functions and duties, the Tennessee Commissioner of Revenue may disclose tax information to officers or employees of an agency of the State of Tennessee or the federal government that are engaged in tax or economic analysis. The agency that receives such tax information is prohibited from disclosing it to a person other than the person to whom it relates, except in a form which cannot be used to identify any particular taxpayer. Tenn. Code Ann. § 67-1-1707(c).
 - Tax information may be disclosed to officers or employees of an agency of Tennessee if relevant to the functions and duties of the requesting agency. The agency, officer or employee who receives such tax information is prohibited from disclosing it to any person other than the person to whom it relates unless authorized by law to do so. Tenn. Code Ann. § 67-1-1707(g).
 - Returns or tax information may be disclosed to any person to whom the Tennessee Department of Revenue is authorized to provide such returns and information by any other provision of law. Tenn. Code Ann. § 67-1-1707(d).

